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SB-1145 Enhanced infrastructure financing districts: maintenance. (2017-2018)

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Senate Bill No. 1145

CHAPTER 563

An act to amend Section 53398.52 of the Government Code, relating to local government.

[Approved by Governor September 19, 2018. Filed with Secretary of State September 19, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1145, Leyva. Enhanced infrastructure financing districts: maintenance.

Existing law authorizes the legislative body of a city or a county to establish an enhanced infrastructure financing district to finance public capital facilities or other specified projects of community significance. Existing law authorizes a district to finance, among other things, the purchase, construction, expansion, or rehabilitation of property and related planning and design work. Existing law prohibits a district from financing routine maintenance and repair work. Existing law authorizes the issuance of bonds for the funding of these purposes if approved by 55% of the voters voting on a proposal to issue the bonds.

This bill, instead, would authorize a district to finance the ongoing or capitalized costs to maintain public capital facilities financed in whole or in part by the district, but would prohibit the use of proceeds of bonds issued to finance maintenance of any kind.

This bill would incorporate additional changes to Section 53398.52 of the Government Code proposed by AB 1999 and SB 1078 to be operative only if this bill and either or both AB 1999 and SB 1078 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(D) (i) The ongoing or capitalized costs to maintain public capital facilities financed in whole or in part by the district.

(ii) Notwithstanding clause (i), a district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance maintenance of any kind.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district shall not finance the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(16) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought.

(17) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low-, or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division

20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 1.1. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(D) (i) The ongoing or capitalized costs to maintain public capital facilities financed in whole or in part by the district.

(ii) Notwithstanding clause (i), a district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance maintenance of any kind.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district shall not finance the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(16) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts,

extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought.

(17) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(18) The acquisition, construction, or improvement of broadband Internet access service. For purposes of this section, "broadband Internet access services" has the same meaning as defined in Section 53167. A district that acquires, constructs, or improves broadband Internet access service may transfer the management and control of those facilities to a local agency that is authorized to provide broadband Internet access service, and that local agency when providing that service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low-, or moderate-income households for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 1.2. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(D) (i) The ongoing or capitalized costs to maintain public capital facilities financed in whole or in part by the district.

(ii) Notwithstanding clause (i), a district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance maintenance of any kind.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district shall not finance the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(16) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought.

(17) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 1.3. Section 53398.52 of the Government Code is amended to read:

53398.52. (a) (1) A district may finance any of the following:

(A) The purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer that satisfies the requirements of subdivision (b).

(B) The planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of property.

(C) The costs described in Sections 53398.56 and 53398.57.

(D) (i) The ongoing or capitalized costs to maintain public capital facilities financed in whole or in part by the district.

(ii) Notwithstanding clause (i), a district shall not use the proceeds of bonds issued pursuant to the authority in Article 4 (commencing with Section 53398.77) to finance maintenance of any kind.

(2) The facilities are not required to be physically located within the boundaries of the district. However, any facilities financed outside of a district shall have a tangible connection to the work of the district, as detailed in the infrastructure financing plan adopted pursuant to Section 53398.69.

(3) A district shall not finance the costs of an ongoing operation or providing services of any kind.

(b) The district shall finance only public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community, including, but not limited to, all of the following:

(1) Highways, interchanges, ramps and bridges, arterial streets, parking facilities, and transit facilities.

(2) Sewage treatment and water reclamation plants and interceptor pipes.

(3) Facilities for the collection and treatment of water for urban uses.

(4) Flood control levees and dams, retention basins, and drainage channels.

(5) Child care facilities.

(6) Libraries.

(7) Parks, recreational facilities, and open space.

(8) Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles.

(9) Brownfield restoration and other environmental mitigation.

(10) The development of projects on a former military base, provided that the projects are consistent with the military base authority reuse plan and are approved by the military base reuse authority, if applicable.

(11) The repayment of the transfer of funds to a military base reuse authority pursuant to Section 67851 that occurred on or after the creation of the district.

(12) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, as defined in Sections 50105 and 50093 of the Health and Safety Code, for rent or purchase.

(13) Acquisition, construction, or repair of industrial structures for private use.

(14) Transit priority projects, as defined in Section 21155 of the Public Resources Code, that are located within a transit priority project area. For purposes of this paragraph, a transit priority project area may include a military base reuse plan that meets the definition of a transit priority project area and it may include a contaminated site within a transit priority project area.

(15) Projects that implement a sustainable communities strategy, when the State Air Resources Board, pursuant to Chapter 2.5 (commencing with Section 65080) of Division 1 of Title 7, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(16) Projects that enable communities to adapt to the impacts of climate change, including, but not limited to, higher average temperatures, decreased air and water quality, the spread of infectious and vector-borne diseases, other public health impacts, extreme weather events, sea level rise, flooding, heat waves, wildfires, and drought.

(17) Port or harbor infrastructure, as defined by Section 1698 of the Harbors and Navigation Code.

(18) The acquisition, construction, or improvement of broadband Internet access service. For purposes of this section, "broadband Internet access services" has the same meaning as defined in Section 53167. A district that acquires, constructs, or improves broadband Internet access service may transfer the management and control of those facilities to a local agency that is authorized to provide broadband Internet access service, and that local agency when providing that service shall comply with the requirements of Article 12 (commencing with Section 53167) of Chapter 1 of Part 1 of Division 2 of Title 5.

(c) The district shall require, by recorded covenants or restrictions, that housing units built pursuant to this section shall remain available at affordable housing costs to, and occupied by, persons and families of very low, low, or moderate income for the longest feasible time, but for not less than 55 years for rental units and 45 years for owner-occupied units.

(d) The district may finance mixed-income housing developments, but may finance only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes as defined in Sections 50105 and 50093 of the Health and Safety Code, and those onsite facilities for child care, after school care, and social services that are integrally linked to the tenants of the restricted units.

(e) A district may utilize any powers under either the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code, and finance any action necessary to implement that act.

SEC. 2. (a) Section 1.1 of this bill incorporates amendments to Section 53398.52 of the Government Code proposed by both this bill and Assembly Bill 1999. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 53398.52 of the Government Code, and (3) Senate Bill 1078 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 1999, in which case Sections 1, 1.2, and 1.3 of this bill shall not become operative.

(b) Section 1.2 of this bill incorporates amendments to Section 53398.52 of the Government Code proposed by both this bill and Senate Bill 1078. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 53398.52 of the Government Code, (3) Assembly Bill 1999 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 1078, in which case Sections 1, 1.1, and 1.3 of this bill shall not become operative.

(c) Section 1.3 of this bill incorporates amendments to Section 53398.52 of the Government Code proposed by this bill, Assembly Bill 1999, and Senate Bill 1078. That section shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2019, (2) all three bills amend Section 53398.52 of the Government Code, and (3) this bill is enacted after Assembly Bill 1999 and Senate Bill 1078, in which case Sections 1, 1.1, and 1.2 of this bill shall not become operative.